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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,916	10/10/2001	Peter M. Thule	US 1292/01 (VA)	4645

7590 10/29/2008

Law Office - Dinesh Agarwal, P.C.
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Alexandria, VA 22312

EXAMINER	
ANGELL, JON E	

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
10/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20081023

DATE MAILED:

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Commissioner for Patents

Request for Information 37 CFR 1.105

Applicants filing of an Appeal Brief the instant Application (09/972,916) on 8/14/2008 is acknolwedged. However, after further review of the application it was determined that additional information was required before prosecution can proceed. Accordingly, Applicant is requested to provide the following information under 37 CFR 1.105.

As previously indicated, the claimed insulin regulator construct(s) appears to be described in references previously cited as art under 35 U.S.C. 102(b), said art being abstracts of public presentations presented by the Applicant more than one year prior to the effective filing date of the instant application.

Applicants were previously asked to supply all information publicly disclosed in the presentations related to the cited abstracts as well as any other public disclosure by Applicant. The cited abstracts dislose an insulin regulator construct that appears to be identical to the claimed insulin regulator construct and both the claimed construct(s) and the construct(s) disclosed in the abstracts are identified as "Ad/(GIRE)3BP-1 2xfur". Although Applicants have submitted the information requested regarding the the presentations, after reviewing the submitted information, a basic question still remains: is the insulin regulator construct disclosed in the abstracts and presentations the same insulin construct that is now claimed?

The Applicant/Assignee of this application is required under 37 CFR 1.105 to provide the following information that has been determined is reasonably necessary to determine if the claimed insulin regulator construct(s) was publicly disclosed prior to the filing of the instant application.

The information that is required is an indication of whether or not the claimed insulin regulator construct(s) are the same constructs that were disclosed in abstracts and presentations given by Applicant prior to filing of the instant application, including, but not limited to:

(1) the presentation given by the Applicant at the 59th Annual Meeting of the American Diabetes Association, June 19-22, 1999;
(2) the presentation given by the Applicant at the 2nd Annual Meeting of the American Society of Gene Therapy, June 9-13, 1999;
(3) the presentation given by the Applicant at the 58th Annual Meeting of the American Diabetes Association, June 13-16, 1998; and,
(4) Any other public disclosure by Applicant/Assignee of the claimed insuling regulator construct(s) which was presented prior to the effective filing date of the instant application.

Should Applicant identify any information not previously submitted but pertinant to determining if the claimed construct(s) were

disclosed prior to filing of the instant application, they are required to submit that information as well.

To be clear, Applicants should indicate whether or not the claimed construct(s) is the same construct(s) disclosed in the prior art.

It is reasonable to expect that Applicant or assignee can readily supply the requested information.

The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item.

This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Eric Angell whose telephone number is 571-272-0756. The examiner can normally be reached on Mon-Fri 9:00 a.m. to 6:30 p.m., with first Friday of the bi-week off .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached at 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR syste

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